

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

SANDRA A HARMS
Claimant

CITY OF MARSHALLTOWN
Employer

APPEAL NO: 11A-UI-03934-S

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/13/11
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated March 21, 2011, reference 01, that held she was discharged for misconduct on February 16, 2011, and benefits are denied. A hearing was held in Des Moines, Iowa on April 26, 2011. The claimant, former employee, Vicki Ocasio, and her Attorney, Katie Nasset, participated. Jana Enfield, Board President, participated for the employer. Employer Exhibits 1 – 4 was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began employment as a full-time administrative assistant for the Marshall County Coalition for Youth under the department employer tax account of the City of Marshalltown on January 28, 2008, and last worked for the employer on February 10, 2011. The claimant received the employer personnel rules and policies. Misrepresentation of any fact on employer records subjects an employee to employment termination.

One of the service providers for the employer is child abuse preventions services a/k/a "CAPS". Board president Enfield is its executive director. The employer was experiencing difficulty with timely payment for reimbursed services to contractors when the State of Iowa/DHS closed it Ames service location and moved to Waterloo.

The employer submitted a payment voucher to DHS for payment after it had been approved by Director/claimant Ocasio on November 8 that represented services performed by contractor CAPS in October. A DHS representative returned the voucher (rejecting payment), because it did not show the service provider had been paid by the employer. With the knowledge of the director, the claimant marked it paid with a date and fictitious employer check number and returned to DHS for payment. The intent was to speed up the payment, as the employer

representatives did not believe it had sufficient funds to pay the provider and then seek reimbursement.

President Enfield overheard claimant state to a CAPS business manager that she had marked the voucher paid when it had not, and several days later she confronted Director Ocasio about it with a request to respond. When no response had been made, Enfield went to the Board about the matter with a concern claimant and director/claimant Ocasio had submitted a falsified voucher for payment to DHS. The Board voted on February 11 to suspend the claimant and claimant/Director Ocasio, and then discharged the claimant for falsification of an employer voucher record on February 16.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on February 16, 2011, for violation of employer policy.

The claimant knew the employer policy that prohibited the falsification of any employer record. The claimant deliberately falsified an employer voucher submitted to a state agency for payment by stating the services rendered by the service provider had been paid knowing that it had not.

While the claimant motive was to speed up payment to the employer, it does not negate the falsification that constitutes job disqualifying misconduct.

The act is a current act because the employer was not able to verify the falsified voucher until after the February 11 suspension, but prior to discharge. The period from January 24 to the suspension was an investigative period during which the director/claimant was given an opportunity to explain.

DECISION:

The department decision dated March 21, 2011, reference 01, is affirmed. The claimant was discharged for misconduct on February 16, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs